

first paragraph. In addition, claims 24-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over DiPoto.

With respect to the rejections of claims 1-12, 14, 18-23, 26-29 and 32 under 35 U.S.C. §112, first paragraph, Applicants respectfully submit that the amendments thereto overcome the rejections. More specifically, claims 1, 12 and 23 have been amended to define that the polyethylene and the polyethylene plastomer each has a density in the range as defined by the claims. Moreover, claim 32 has been amended to define that the first layer is laminated to a film wherein said film comprises oriented PET. Applicants respectfully submit that the amendments made to claims 1, 12, 23 and 32 overcome the rejections thereto under 35 U.S.C. §112, first paragraph.

With respect to the rejection of claims 24 and 25 under 35 USC §103(a) as being unpatentable over DiPoto et al., Applicants respectfully submit that the claims as amended distinctly define the present invention from DiPoto et al. and any of the other art of record for the reasons that follow.

More specifically, DiPoto et al. merely teach a multilayer film structure comprising two or more layers having a first layer of a barrier material and a second layer of a heat sealable material that is compression roll oriented. However, nowhere does DiPoto et al. teach a package or a method of making a package wherein said package comprises a first film structure having first and second layers of a polyethylene or blended polyethylene having a density of about 0.93 g/cc to about 0.97 g/cc, and a third layer of a blend of polyethylene and a polyethylene plastomer wherein said polyethylene and said polyethylene plastomer each has a density range from about 0.89 g/cc to about 0.93 g/cc, wherein said film structure is laminated to another film structure

wherein said other film structure comprises a polymeric material selected from the group consisting of oriented PET, oriented PP, oriented PE, oriented nylon, or cellophane.

As stated above, the combination of features of the present invention provides for a package that may have both rigidity when solidified, yet has flowability when heated so that the package produced thereby is easily torn by a consumer to gain access to the interior of the package and the contents contained therein. Moreover, the combination of features provides for a package that has quick-setting properties when heated. In addition, the oriented PET, PP, PE, nylon or cellophane laminate provides for a film that has increased rigidity and structural integrity so that package may have sufficient moisture and oxygen barrier properties, flex crack resistance, printability and heat resistance. The oriented PET, PP, PE, nylon or cellophane film is typically an outer printed layer or layers that may hold flowable products, such as for condiments like catsup, mustard or other flowable products. These features are nowhere taught nor even disclosed by DiPoto et al. Applicants respectfully submit that the amendments to claims 24 and 25 overcome the rejections under 35 U.S.C. §103(a).

Claims 2-12, 14, 16-22, and 26-29 depend from independent claim 1. These claims are further believed allowable over the references of record for the same reasons set forth with respect to their parent claim because each sets forth additional structural elements of Applicants' novel film structure.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with Markings to Show Changes."

CONCLUSION

In view of the foregoing remarks and amendments, Applicants respectfully submit that all of the claims are in allowable form and that the application is now in condition for allowance. If,

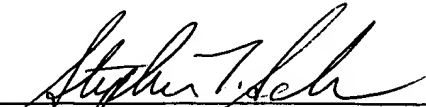
In re Genske, et al.
U.S. Patent Application No. 09/470,386

however, any outstanding issues remain, Applicants urge the Examiner to telephone Applicants' attorney so that the same may be resolved and the application expedited to issue. Applicants respectfully request the Examiner to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

Date: March 5, 2003

By: _____


Stephen T. Scherrer
Registration No. 45,080
McDERMOTT, WILL & EMERY
227 West Monroe STREET
Chicago, IL 60606-9815
312-372-2000

MARKED UP VERSION TO SHOW CHANGES

Please amend the claims as follows:

1. (Amended) A multilayer film structure having at least two layers comprising:
 - (a) A first layer comprising poly(ethylene) or blended poly(ethylene) wherein said first layer poly(ethylene) is selected from poly(ethylenes) having a density from about 0.93 g/cc to 0.97 g/cc; and
 - (b) A second layer comprising a blend of [low density] polyethylene and a polyethylene plastomer wherein said [blend] polyethylene and said polyethylene plastomer each has a density [range from] of about 0.89 g/cc to 0.93 g/cc and wherein said second layer is capable of forming a heat seal,

wherein said first layer is laminated to a film wherein said film comprises a polymeric material selected from the group consisting of oriented PET, oriented polypropylene, oriented polyethylene, oriented nylon, and coated or uncoated cellophane.
12. (Amended) The multilayer film of claim 1 wherein said [blend] polyethylene and said polyethylene plastomer each has a density [from] of about 0.90 g/cc to about 0.925 g/cc.
14. (Amended) The multilayer film of claim 1 wherein said polyethylene plastomer has a density of about .911 g/cc and said [LDPE] polyethylene has a density of about .921 g/cc.
23. (Amended) A method of making a package comprising:
 - (1) providing a multilayer film having:
 - (a) A first layer comprising a poly(ethylene) or a blended poly(ethylene) wherein said first layer poly(ethylene) is selected from poly(ethylenes) having a density from about 0.93 g/cc to about 0.97 g/cc;

- (b) A second layer comprising a blend of [low density] polyethylene and a polyethylene plastomer wherein said [blend] polyethylene and said polyethylene plastomer each has a density [range from] of about 0.89 g/cc to about 0.93 g/cc and wherein said second layer is capable of forming a heat seal; and

(2) laminating said multilayer film structure to another film structure to form a package wherein said other film structure comprises a polymeric material selected from the group consisting of oriented PET, oriented polypropylene, oriented polyethylene, oriented nylon, and coated or uncoated cellophane.

24. (Amended) A method of making a package comprising: (1) providing a multilayer film having:

- (a) A first layer comprising poly(ethylene) or a blended poly(ethylene) wherein said poly(ethylene) has a density range from about 0.93 g/cc to 0.97 g/cc and wherein said first layer may optionally contain a color pigment and/or filler;
- (b) A second layer comprising poly(ethylene) or a blended poly(ethylene) wherein said poly(ethylene) has a density range from about 0.93 g/cc to 0.97 g/cc and wherein said second layer may optionally contain a color pigment and/or a filler; and
- (c) a third layer comprising [poly(ethylene) or a blended poly(ethylene) wherein said poly(ethylene)] a blend of polyethylene and a polyethylene plastomer wherein said polyethylene and polyethylene plastomer each has a density [range from] of about 0.89 g/cc to 0.93 g/cc and wherein said third layer is capable of forming a heat seal; and

(2) laminating said multilayer film structure to another film structure to form a package wherein said other film structure comprises a polymeric material selected from the group consisting of oriented PET, oriented polypropylene, oriented polyethylene, oriented nylon, and coated or uncoated cellophane.

25. (Amended) A package for flowable material comprising:

(1) a first multilayer film structure comprising: (a) a first layer comprising poly(ethylene) or a blended poly(ethylene) wherein said poly(ethylene) has a density range from about 0.93 g/cc to 0.97 g/cc and wherein said first layer may optionally contain a color pigment, and/or a filler; (b) a second layer comprising poly(ethylene) or a blended poly(ethylene) wherein said poly(ethylene) has a density range from about 0.93 g/cc to 0.97 g/cc and wherein said second layer may optionally contain a color pigment and/or a filler; and (c) a third layer comprising [poly(ethylene) or a blended poly(ethylene) wherein said poly(ethylene)] a blend of polyethylene and a polyethylene plastomer wherein said polyethylene and said polyethylene plastomer each has a density [range from] of about 0.89 g/cc to 0.93 g/cc and wherein said third layer is capable of forming a heat seal; and

(2) at least one other film structure capable of being laminated to said first multilayer film structure wherein said other film structure comprises a polymeric material selected from the group consisting of oriented PET, oriented polypropylene, oriented polyethylene, oriented nylon, and coated or uncoated cellophane.

32. (Amended) A multilayer film structure comprising:

a first layer comprising a blend of a first poly(ethylene) having a density of about 0.960 g/cc wherein the first poly(ethylene) comprises about 80% of the film layer, and a colorant;

a second layer comprising a blend of a second poly(ethylene) having a density of about 0.960 g/cc wherein the second poly(ethylene) comprises about 75% of the second film layer, and a colorant; and

a third layer comprising a blend of a third poly(ethylene) having a density of about 0.921 g/cc wherein the third poly(ethylene) comprises about 65% of the third film layer, and a fourth poly(ethylene) having a density of about 0.911 g/cc wherein the fourth poly(ethylene) comprises about 30% of the third film layer;

wherein the first layer has a thickness of about 0.15 mils, the second layer has a thickness of about 0.90 mils, and the third layer has a thickness of about 0.45 mils and further wherein the film structure has a total thickness of about 1.5 mils; and

wherein said first layer is laminated to a film wherein said film comprises [a polymeric material selected from the group consisting of] oriented PET[, oriented polypropylene, oriented polyethylene, oriented nylon, and coated or uncoated cellophane].